

**CUSTOMER NO.: 24498**

**Serial No.: 10/758,172**

**Office Action dated: February 20, 2007**

**Response dated: July 20, 2007**

**PATENT  
PU050093 (CON)**

**Amendments to the Drawings:**

Please replace Figures 1-12 with (13) replacement sheets for the same submitted herewith. Each of the replacement sheets includes the phrase "replacement sheet" pursuant to 37 CFR 1.121(d) and are attached to this paper.

**REMARKS**

The Office Action mailed February 20, 2007 has been reviewed and carefully considered. No new matter has been added.

Claim 20 has been amended. Claims 1-28 are pending.

The Applicant has amended the priority statement of the present application, wherein the Applicant acknowledges that one cannot cite to a provisional application as a continuation in part. Applicant also has added citations in the specification to related applications of the present application which claim priority (and originate from) the original provisional U.S. No. 60/203,461. These citations are being added to formally bring the to the Examiner's attention these related applications. Specifically, U.S. Patent Application No. 09/954,144, filed on September 12, 2001; U.S. Patent Application No. 09/636,393, filed on August 9, 2000; U.S. Patent Application No. 09/635,735, filed on August 9, 2000; U.S. Patent Application No. 09/636,388 filed on August 11, 2000, from which U.S. Patent Application No. 10/788,559 filed on February 26, 2004 was filed as a continuation from; U.S. Patent 6,980,972 which issued on December 27, 2005; U.S. Patent Application No. 09/635,723 filed on August 9, 2000; and U.S. Patent Application No. 09/635,736.

The drawings have been objected to. Accordingly, replacement sheets for Figures 1-12 are submitted herewith pursuant to 37 CFR 1.121(d) and are believed to overcome the objections. Thus, withdrawal of the objections is respectfully requested.

Claims 1-9, 11-24, and 26-28 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,296,185 to Dejaeger (hereinafter "Dejaeger"). Moreover, Claims 10 and 25 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Dejaeger in view of U.S. Patent No. 4,400,724 to Fields (hereinafter "Fields"). The rejections are respectfully traversed.

It is respectfully asserted that none of the cited references teach or suggest "storing preliminary information for each of the plurality of financial transactions in a third party controlled data base", as recited in Claim 1.

Moreover, it is respectfully asserted that none of the cited references teach or suggest "a database coupled to said network and said third party means, under the control of the third party, for storing at least a portion of said intercepted data and said supplemental information", as recited in Claim 20.

Regarding the above-recited limitation of Claim 1, the Examiner has pointed to column 34, lines 44-58 of Dejaeger as disclosing the same. Column 34, lines 39-58 of Dejaeger are reproduced as follows:

As discussed above, **the processing unit 78b preferably includes a number of local memory devices** such as the memory modules 78d (see FIG. 9) and a hard drive. The local memory devices are provided to maintain the operating system software needed to operate the checkout system 10. In addition, the local memory devices are provided to maintain an electronic transaction table which includes a record of the product information associated with each item that is scanned, weighed, or otherwise entered during the user's operation of the checkout system 10. For example, if the user scans a can of soup, the description of the soup and the pricing information associated therewith is recorded in the transaction table in the local memory devices. Similarly, if the user weighs a watermelon with the product scale 26 and then enters a product lookup code associated with watermelon via a data input device such as the terminals 76, 78, product information associated with the watermelon is recorded in the transaction table. Moreover, if a user entered a coupon or voucher, the information associated therewith would also be recorded in the transaction table.

Moreover, column 15, lines 22-26 of Dejaeger disclose the following:

The checkout system 111 also includes a pair of user interface terminals for receiving input from and providing information to a user. In particular, **the checkout system 111 includes** personnel interface terminal 76 (see FIG. 2) and **an interactive customer interface terminal 78** (see FIG. 1).

Further, column 17, lines 50-66 of Dejaeger disclose the following:

Moreover, the interactive customer interface terminal 78 is preferably embodied as a stand-alone, kiosk-type device which is, in essence, a modified flat panel personal computer (PC) which includes a number of components commonly associated therewith such as a processing unit 78b having a microprocessor 78c (see FIG. 9) and a number of memory modules 78d (see FIG. 9) associated therewith, along with other commonly utilized PC components such as an Ethernet controller, a number of video and audio control devices, a storage memory device such as a hard drive device, and a number of connector ports for coupling the interface terminal 78 to a number of retail peripheral devices such as the scanner 24 and the product scale 26. Hence, in addition to displaying transaction information to the customer, the interactive customer interface terminal 78 functions as the main processing device or controller for controlling operation of the checkout system 10.

Also, column 15, lines 48-52 of Dejaeger disclose the following:

the interactive customer interface terminal 78 is provided for use by customer when the checkout system 111 is being operated in both its assisted mode of operation and its self-service mode of operation.

Additionally, column 5, line 56 to column 6, line 45 of Dejaeger disclose the following:

The checkout system 111 is configured to perform a number of retail functions such as assisted checkout functions and unassisted or "self-service" checkout functions. What is meant herein by the term "assisted checkout functions" or "assisted checkout transactions" are those checkout functions or transactions performed by a checkout system when the checkout system is being operated by retail personnel such as a clerk or associate which is employed by the retailer to operate the checkout system. For example, an assisted checkout function or transaction would be performed by the checkout system 111 in response to a store-employed clerk scanning or otherwise entering a customer's items for purchase into the checkout system, and thereafter

depressing a payment-received key on the checkout system which indicates that the customer paid for such items. Accordingly, what is meant herein by the phrase "assisted mode of operation" is a configuration of the checkout system 10 which allows the system 10 to perform an assisted checkout function or transaction.

Moreover, what is meant herein by the term "self-service checkout functions" or "self-service checkout transactions" are those checkout functions or transactions which are performed by a checkout system by the customer himself or herself without the assistance of a clerk or other personnel employed by the retailer. For example, a self-service checkout function or transaction would be performed by the checkout system 10 in response to a customer himself or herself scanning or otherwise entering items for purchase into the checkout system, and thereafter depressing a payment key on the checkout system which indicates the manner by which the customer intends to pay for such items (e.g. by interaction with a credit/debit card reader or a currency acceptor). Accordingly, what is meant herein by the phrase "self-service mode of operation" is a configuration of the checkout system 10 which allows the system 10 to perform a self-service checkout function or transaction.

In addition, what is meant herein by the term "customer" is a person who enters a retailer's store, selects his or her items for purchase from the shopping area of the store, checks out his or items for purchase at a checkout system such as the checkout system 10 (including tendering payment for his or her items for purchase), and then exits the store subsequent to tendering payment. Hence, as used herein, a customer is distinguished from retail personnel such as a checkout clerk or other employee of the retailer in that a customer enters the retailer's store for the sole purpose of purchasing items from the store. Moreover, what is meant herein by the term "retail personnel" is a person that is employed by the retailer to perform a retail activity such as operation of a checkout system such as the checkout system 10 for the purpose of conducting a retail transaction such as an assisted checkout transaction. Examples of retail personnel include a checkout clerk or customer service

manager. Also, the term "user" is herein used to refer to any operator of the checkout system 10. Accordingly, a user may be retail personnel, a customer, or any other person who operates the checkout system 10.

Accordingly, while Claim 1 recites, inter alia, "storing preliminary information for each of the plurality of financial transactions in a third party controlled data base", and Claim 20 recites, inter alia, "a database coupled to said network and said third party means, under the control of the third party, for storing at least a portion of said intercepted data and said supplemental information", Dejaeger discloses a local memory device under the control of one of the first two parties, namely the retailer. That is, the checkout system 111 includes the interactive customer interface terminal 78 (Dejaeger, col. 15, lines 22-26) that, in turn, includes a processing unit 78b having a number of memory modules 78d (Dejaeger, col. 17, lines 50-66), in which certain data is stored. Since the checkout system 111 is under the control of the retailer, and is subject to interaction by the customer, which comprise the first two parties, the memory modules 78d included in the checkout system are also under the control of the retailer (one of the first two parties) and interacted with by the customer (one of the first two parties) and NOT a third party.

While only Dejaeger was cited against Claims 1 and 20, it is nonetheless respectfully asserted that the remaining cited reference, namely Fields, does not cure the deficiencies of Dejaeger, and is silent with respect to the above-recited limitations of Claims 1 and 20.

Accordingly, none of the cited references, either taken singly or in any combination, teach or suggest all the limitations recited in Claims 1 and 20.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP §2131, citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Accordingly, Claims 1 and 20 are patentably distinct and non-obvious over the cited references for at least the reasons set forth above.

"To establish prima facie obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art" (MPEP §2143.03, citing *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974)). "If an independent claim is nonobvious under 35 U.S.C.

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103, then any claim depending therefrom is nonobvious" (MPEP §2143.03, citing *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)).

Claims 2-19 depend from Claim 1 or a claim which itself is dependent from Claim 1 and, thus, includes all the limitations of Claim 1. Claims 21-28 depend from Claim 20 and, thus, include all the limitations of Claim 20. Accordingly, Claims 2-19 and 21-28 are patentably distinct and non-obvious over the cited references for at least the reasons set forth above with respect to Claims 1 and 20, respectively.

In view of the foregoing, Applicants respectfully request that the rejection of Claim 7 set forth in the Office Action of February 20, 2007 be withdrawn, that pending claims 1-28 be allowed, and that the case proceed to early issuance of Letters Patent in due course.

Applicants request a two month extension to file this response under 37 C.F.R. 1.136(a). Please charge the fee for this extension and any other fees owed in connection with this response to Deposit Account 07-0832.

Respectfully submitted,



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